SHRI G.S. SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY
WRIT APPEAL NO. 923 OF 2006

BETWEEN

Uppukonduri Raghavayya & others

.....Appellants

And

The Executive Officer,
Sri Ranganayaka Swamy Vari Devasthanam,
SolasuVillage, Yedlapadu Mandal,
Guntur District & others.

.....Respondents

Counsel for the appellants : Shri E.V. Bhagiratha Rao

Counsel for the respondents : Government Pleader for Endowments

Dated: 11.09.2006

::JUDGMENT::

Per G.S. SINGHVI, CJ

Having failed to persuade the learned Single Judge to entertain their prayer for directing the respondents not to dispossess them from the lands in respect of which they were given lease for a fixed term of three years commencing from 11.06.2003 and to allow them to cultivate the same, the appellants have preferred this appeal under Clause 15 of the Letters Patent.

The bedrock of the prayer made by the appellants in the writ petition filed by them was that their forefathers were in possession of different parcels of land belonging to Shri Ranganayaka Swamy Vari Devasthanam, Solasu Village, Yedlapadu Mandal, Guntur District for more than 30 years and in last three years they had cultivated the land and also sown the crop in June 2006.

In the affidavit filed by petitioner No.4 – Shri Gadi Joji Reddy, it was averred that the petitioners are supporters of Telugu Desam Party and in the wake of forthcoming elections to the local bodies like M.P.T.C. and Z.P.T.C., they are sought to be evicted in the garb of holding public auction of the land possessed by them. The deponent further averred that the petitioners had spent huge amounts for making the land cultivable and for this purpose they had made borrowings on interest and now attempts were being made to dispossess them.

In the counter filed by Shri Dinesh Kumar, Commissioner of Endowments Department, the particulars of the tenants and details of the auction conducted on 15.05.2006 was given. According to Shri Dinesh

Kumar, Deputy Commissioner, Endowments Department, Guntur did not approve the auction held on 15.05.2006 because there were reports of several irregularities. He also referred to the enquiry conducted against the officers of the Endowments Department who were found responsible for committing irregularities in allowing illegal occupation of the land of the temple. Some of the unmarked paragraphs of the affidavit filed by Shri Dinesh Kumar which contain the details of the enquiry got conducted by him are extracted below:

" I submit that the Hon'ble Court was pleased to direct me by order dated 11.07.2006, to conduct an enquiry by a person not below the rank of Deputy Commissioner of Endowments into the circumstances that led to the failure of the appropriate officer or officers in executing lease deeds in favour of the petitioners pursuant to the order of the Deputy Commissioner of Endowments, Guntur bearing reference D.Dis.No.A1/6391/2003, dated 15.07.2003 granting leases to the petitioners and other specified in the order of the Deputy Commissioner, dated 15.07.2003, duly identifying each of the officers responsible for the failure and the report will also deal with and record the conclusions as to why public auction of the leases of land belonging to Sri Ranganayaka Swamy Temple, Solasu Village, Yedlapadu Mandal, Guntur District were not held immediately after the tenure of the earlier leases come to an end.

Immediately, I appointed Sri C. Prem Kumar, Joint Commissioner & Executive Officer, Sri Venkateshwara Swamy Devasthanam, Dwaraka Tirumala to conduct an enquiry and submit his report. The Enquiry Officer has submitted that he had been to Tubadu village on 14.07.2006 and inspected the lands in question and submitted that as seen from the D.C.B. Register produced by the Manager of Sri Ranganayaka Swamy Temple, Solasu (V), Edlapadu (M), Guntur District from 1996 to 2003 the following is the position of the tenants. Prior to this period also some of the persons who are shown as tenants during the public auction 2003-04 find their names including their kith and kin and the following are the details

1996-97 : Particulars of Tenants.

1. Ac.3.00 cts. Sri Gade Joji Reddy with an annual maktha of 12 bags of paddy.
2. Ac.5.65 Cts., Sri G.Marreddy with an annual maktha of 22 bags of paddy.
3. Ac. 7.20 Cts. Sri Katakam Chinapareddy with an annual maktha of 28 bags of paddy.
4. Ac.7.00Cts. Sri K. Chinayinnareddy with an annual maktha of 24 bags of paddy.
5. Ac.1.60- Cts. Sri Shek Mahamad Khasim with an annual maktha of 5 bags of paddy.
6. Ac.7.19 Cts. Sri Katakam Rayapu Reddy with an annual maktha of 28 bags of paddy.
7. Ac.4.10 Cts. Sri U. Vera Raghavaiah with an annual maktha of 16 bags of paddy.
8. Ac.2.00 Cts. Sri Tirumalaraju Satyanarayana Raju, with an annual maktha of 8 bags of paddy.
9. Ac.5.00 Cts. Sri M. Satyanarayana Raju, with an annual maktha of 20 bags of paddy.
10. Ac. 5.10 cts. Sri Gade Showrreddy with anannual maktha of 20 bags of paddy.
11. Ac. 3.50 Cts. Sri Gade Chinapa Reddy with an annual maktha of 10 bas of paddy.

The above tenants have been continuing in the land for the last several years without having any lease approval orders. Sri T. Srinivasa Rao worked as Executive Officer of subject temple from 1996 to 10/2002 who retired from service.

During the year 2003-04 public auction was conducted by the Manager, Sri P. Nageswara Rao in the presence of Sri T. Srinivasa Rao, Executive Officer of Nadendla Group Temples duly incorporating a condition that as per the request of the villagers of Thubadu (V) the lands in question were put in public auction as dry lands due to non-availability of water from Nagarjuna Sagar Project Cannel. The result of the auction is as follows:

Sl. No	Sy. No	Extent Acs.Ct	Previous maktha Rs.	Present maktha	Period of lease	Name of the Highest bidder
1.	201	2.50 1.00	10 bags paddy	5,500/-	2003-04 to 2005-06	Sri Gade Chinnapa Reddy S/o Sleeva Reddy
2.	201	5.65	22 bags paddy	12,300/-	-do-	Sri Gade Balashow Reddy S/o Marreddy
3.	201	4.10	16 bags paddy	9,000/-	-do-	Sri Uppugunduri Raghavaiah S/o Venkataramaiah

4.	201	7.20	28 bags paddy	15,800/-	-do-	Sri Katakam Kireeti Reddy S/o Enna-reddy
5.	201	3.00	12 bags paddy	6,600/-	-do-	Sri Gade Joji Reddy S/o Chinnapareddy
6.	201	5.00	20 bags paddy	10,950/-	-do-	Sri Gade Prakasareddy S/o Ennareddy
7.	201	2.00	8 bags paddy	3,850/-	-do-	Sri Thirumalaraju Srinivasa Raju S/o Narayana Raju
8.	201	4.00 1.00	20 bags paddy	8,800/-	-do-	Sri Mandapati Venkateswara Raju S/o Satyanarayana Raju
9.	201	6.00 1.00	24 bags paddy	13,200/-	-do-	Sri Katakam Mariya Sudhakarreddy S/o Chinnapa Reddy
10.	201	7.19	28 bags paddy	15,875/	-do-	Sri Katakam Marreddy S/o Ennareddy
11.	201	1.60	5 bags paddy	2,750/-	-do-	Sri Sk. Mahamad Khasim S/o Moulana Saheb

Out of the above tenants, the tenants shown above at Sl.No.1,3,5 & 11 are the same tenants and the remaining are the nearest relatives of previous tenants, who are cultivating the lands from the last several years without any registered lease deed.

After expiry of lease period the Manager of the subject temple has proposed to lease out the lands in public auction on 15.05.2006 for a period of three years i.e. from 2006-07 to 2008-09 and public auction was conducted in the presence of the Inspector, Endowments Department, Narasaraopet (Sri G. Syam Sundar). As the result, the Inspector has submitted a report in his letter in Rc.No.153/2006 Dated 13.06.2006k to the Deputy Commissioner, Endowments Department, Guntur recommending the lease for approval in favour of highest bidders as detailed hereunder.

Sl. No.	Sy. No.	Extent Ac.Cts.	Previous Maktha Rs.	Present Maktha Rs.	Period of lease	N a m e of the Highest bidder
1.	201	5.00	8,800/-	10,400/-	2006-07 to 2008-09	**Sarvasree:** Mandapati Satyanarayana Raju
2.	201	2.00	3,850/-	5,200/-	-do-	T . Srinivasu Raju
3.	201	2.40	5,200/-	6,250/-	-o-	K. Jana Reddy
4.	201	1.50	3,000/-	3,950/-	-do-	G. Enna Reddy
5.	201	1.80	2,900/-	4,000/-	-do-	K. Rakheelamma
6.	201	2.40	4,200/-	6,400/-	-do-	K. Bulli Venkata Reddy
7.	201	1.50	3,000/-	4,000/-	-do-	Chinnapa Reddy
8.	201	1.50	3,000/-	3,900/-	-do-	K . Santha Kumari
9.	201	1.50	3,000/-	3,900/-	-do-	K . Chinnapa Reddy
10.	201	1.20	2,300/-	3,200/-	-do-	K.Kireeti Reddy
11.	201	1.20	2,000/-	3,150/-	-do-	K. Papi Reddy
12.	201	3.64	6,900/-	9,500/-	-do-	K. Papi Reddy
13.	201	3.55	6,200/-	9,150/-	-do-	K. Marreddy
14.	201	2.50	5,000/-	6,500/-	-do-	G . Prakash Reddy
15.	201	1.00	2,000/-	6,500/-	-do-	G. Sleevamma

16.	201	0.50	800/-	1,200/-	-do-	G . Prakash Reddy
17.	201	1.00	2,000/-	2,600/-	-do-	G . Chinnapa Reddy
18.	201	0.83	1,000/-	2,150/-	-do-	G . Rayapa Reddy
19.	201	1.50	2,200/-	3,900/-	-do-	G. Kaspa Reddy
20.	201	1.25	2,100/-	3,250/-	-do-	G. Kaspa Reddy
21.	201	1.25	2,000/-	3,300/-	-do-	G . Chinna Reddy
22.	201	0.83	1,000/-	2,150/-	-do-	G . Sleeva Reddy
23.	201	0.83	1,000/-	2,200/-	-do-	G . Chinnapa Reddy
24.	201	0.50	1,000/-	1,300/-	-do-	G . Joseph Reddy
25.	201	1.50	2,000/-	3,900/-	-do-	K . Bala ShouriReddy
26.	201	1.00	1,000/-	2,600/-	-do-	G. Pratap Reddy
27.	201	2.05	4,000/-	5,300/-	-do-	U. Raghavaiah
28.	201	2.05	4,000/-	5,350/-	-do-	Venkateshwarlu

After receipt of the report of the Inspector, Endowments Department, Narasaraopet for approval of the lease for a period of 3 years, the Deputy Commissioner, Endowments Department, Guntur who received several complaints from public and press alleging that the auction said to have been conducted on 15.05.2006 in fact was actually not conducted and the Inspector, Endowments Department, Narasaraopet and the Manager along with Founder Trustee by sitting in the Village concocted the entire transaction. He also enquired the Inspector, Endowments Department, Narasaraopet, Manager and Founder Trustee of the subject temple about the complaints received from the villagers who ion turn have admitted the fact and given statements stating that due to village feuds and due to frequent disputes between the villagers, Villagers were called and by negotiating they fixed up the lease and prepared the statement as if public auction was conducted.

Consequent, on their admission the Deputy Commissioner, Endowments Department, Guntur has framed charges against the Inspector, Endowments Department, Narasaraopet, Manager and Founder Trustee of the subject temple alleging certain commissions and omissions in conducting public auction and also for sending a concocted report in Rc.NO.A1/5517/06 dated 29.06.2006 & 11.07.2006 and the reply is awaited.

In view of the enquiries made by the Deputy Commissioner, Endowments Department, Guntur and as per the complaints received thereon the Deputy Commissioner has to vetoed the public auction which was conducted on 15.05.2006 and instructed to conduct re-auction in the presence of the Inspector, Endowments Department, Sattenpalli.

As per the order of the Deputy Commissioner, Endowments Department, Guntur, the Manager has proposed to conduct public auction on 08.07.2006 in the presence of the Inspector, Endowments Department, Sattenapalli. The proposed re-auction was stopped due to the objections raised by the sitting tenants that there is a standing crop of Subabulu plants in an extent of Ac.18.49 cts. and some more tenants have effected repairs and ploughing the lands and that they keep them ready for plantation and due to non-cooperation of the villagers and for the hurdles created by the previous tenants.

As per the personal inspection the actual position of the land is as follows:

The land is having the following boundaries.

East: Private lands of Ahaik Gun Saidulu & Edukondalu etc.

West: Chendavaram Donka

North: Private lands of Sri Kolli Sriramulu, Bojja Edukondalu and Katakam Marreddy etc.

South: Tubadu to Rajugaripalem Road.

The entire extent of land of Ac.51.24 cts. is covered in 11 plots.

Out of the total extent, the following tenants have raised Subabul trees and the age of the crop would be 3 to 4 years.

1. Sri Uppugunduru Raghaviah Ac.4.10 Cts.
2. Sri Katakam Kireeti Reddy Ac.7.20 Cts.

3. Sri Katakam Marreddy Ac.7.19 Cts.

Total: Ac.18.49 Cts.

The remaining land of Ac.32.75 Cts. is under possession of 8 tenants as per the auction conducted in the year 2003-04 as detailed hereunder.

1. Sri M.V. Raju Ac.5.00 Cts.
2. Sri T.S. Raju Ac.2.00 Cts.
3. Sri G. Bala Showreddy Ac.5.65 Cts.
4. Sri K. Mariya Sudhakar Reddy Ac.7.00 Cts.
5. Sri G. Prakash Reddy Ac.5.00 Cts.
6. Sri G. Chinapa Reddy Ac.3.50 Cts.
7. Sri Shek Mahamad Khasim Ac.1.60 Cts.
8. Sri G. Joji Reddy Ac.3.00 Cts.

All of the above tenants have ploughed the land and made arrangements for cultivation. Hence, the averments of the petitioners that due to the recent rains in the month of June, 2006 they raised crops in Ac.20.00 Cts. dry land by sending huge amounts towards manure and fertilizers is not correct and true as stated in their petition/affidavit at para No.4. Out of the above cultivating tenants the following tenants have not approached the Hon'ble High Court in W.P.No.13519/2006.

1. Sri Tirumala Raju Srinivasa Raju S/o Narayana Raju Ac.2.00 Cts.
2. Sri Mandapati Venkateswara Raju,S/o Satyanarayana Raju Ac.5.00
3. Sri Shek Mahamad Khasim Ac.1.60 Cts.

The tenants have also suppressed the fact of raising subabul crop in an extent of Ac.18.49 Cts.

Finally the enquiry officer has submitted that, the following employees are responsible for these serious lapses.

1. Sri G. Shyam Sundar, Inspector, /Endowments Department, Narasaraopet, Guntur District who has sent a report to Deputy Commissioner, /Endowments Department, Guntur in his Rc.No.153/2006 Dt. 13.06.2006 recommending the lease for approval by concocting records and for suppression of fact that there was subabul crop in an extent of Ac.18.49 cents.
2. Sri P. Nageswara Rao, Manager of Solasa Grop Temples, Edlapadu (M), Guntur District who colluded with the Hereditary Trustee and Inspector, Endowments Department, Narasaraopet and sent a fictitious land concocted report and also for suppressing the fact that there is already subabul crop existed in an extent of Ac.18.49 Cts.
3. Sri A. Ch. Govinda Rao, Founder Trustee and Chairman of the temple who colluded with Manager & Inspector and instrumental in sending a false report signing the lease report. It is also a fat that the public auction said to be conducted on 15.05.2006 is a fictitious one, as the list of highest bidders shown indicates names of some of the old tenants also who were shown as highest bidders during the public auction held for the period 2003-04 along with their kith and kin.

I submit herewith a copy of the enquiry report of the enquiry officer as directed by the Hon'ble High Court.

Even before the enquiry was done by the Enquiry Officer as directed by this Hon'ble Court, the Deputy Commissioner, Endowments Department, Guntur, who is Divisional officer have already framed charges against the above (3) individuals vide his Proc.No.A1/5517/2006 dated 29.06.2006 and have directed the above individuals to submit their explanation from within (10) days. Lest, it will be deemed that, he has no explanation to offer and action as deemed it will be taken against him without any further notice."

Along with his affidavit, Shri Dinesh Kumar annexed copy of order dated 15.07.2003 issued by Deputy Commissioner of Endowments Department vide which lease of different parcels of land was granted to the appellants for a period of three years.

The learned Single Judge noticed the factual matrix of the case including the assertion contained in the counter-affidavit of the official respondents that the auction held on 15-5-2006 was farce and that the writ petitioners were responsible for frustrating the action initiated by the respondents for holding fresh auction on 08-7-2006 and declined to entertain the prayer of the writ petitioners for being allowed to continue to retain possession of the land. The penultimate paragraph of the order passed by the learned Single Judge, which contains the reasons for his refusal to entertain the prayer of the appellants, is re-produced below:

> " The 4th respondent in his counter affidavit has stated that the further process of public auction of leasehold rights of the lands of the Temple, scheduled on 08.07.2006 could not be processed with on account of resistance by the sitting tenants and others. The 4th respondent has all the power and authority under the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act') as the Chief Administrator to ensure effectuation of the provisions of the Act. The provisions of the Act and the relevant Rules made thereunder mandate that the leasehold rights of agricultural lands belonging to an endowment or religious institution should be by way of public auction. Every department and authority of the State and every executive agency of the State is obligated to lend full and unreserved cooperation to effectuate the mandate and purposes of every legislation. Execution of the legislative mandate is duty of the every executive agency of the State. Section 83 of the Act also enables the competent authority to evict encroachers by a speedy and summary process. The 4th respondent should therefore in accordance with the obligations under the provisions of the Act issue necessary directives to the competent authority to evict the encroachers in accordance with the due process of law and also, if necessary requisition the District Collector or the Superintendent of Police concerned to send adequate force to enable the conduct of public auction. If the 4th respondent considers it expedient and necessary, he may depute an officer not below the rank of a Deputy Commissioner of Endowments to supervise the conduct of the public auction to ensure that the fraudulent conduct of auction as earlier, is not repeated."

Shri E.V. Bhagiratha Rao, learned counsel for the appellants reiterated the arguments advanced before the learned Single Judge and submitted that the Court should allow the appellants to retain possession at least till the next year on payment of reasonable amount by way of lease money because they had already spent huge amount in sowing the seeds in the month of June 2006. Learned counsel argued that failure of the Deputy Commissioner of Endowments to approve the highest bid given by his clients in the auction held on 15.05.2006 should be declared illegal and the respondents be directed to accept the highest bid given by the appellants.

We have considered the submissions of the learned counsel, but have not at all felt impressed. There is no dispute between the parties that in terms of the provisions contained in the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the 1987 Act'), the lands belonging to the temples can be alienated by lease, sale etc. only by way of public auction and not otherwise. It is also not in dispute that the tenure of the lease granted to the appellants had come to an end on 10-6-2006 and the competent authority had not extended their lease. It is, therefore, reasonable to take the view that with effect from 11.06.2006, the appellants' possession of the land in question became unauthorized. They did participate in the auction held on 15-5-2006 and are said to have given highest bid, but that did not create a right in their favour to retain possession of the land because the auction was subject to approval by the Deputy Commissioner, who, after taking cognizance of the complaints received from the public and reports appearing in the press that no auction had, in fact, been conducted, refused to approve the same and instructed the competent officer to conduct a fresh auction in the presence of Inspector of Endowments Department, Sattenapalli. The auction scheduled on 8-7-2006 could not be conducted because of the impediments created by none else than the appellants. This shows that the

appellants, whose right to continue to occupy the land as lessees ended on 10-6-2006, do not want anyone else to participate in the auction so that they may continue to occupy the land. This conduct of the appellants is, by itself, sufficient to deny relief to them.

We entirely agree with the learned Single Judge that after expiry of the term of lease, the appellants do not have the right to retain possession of the land. We are further of the view that a direction by the Court to allow the appellants to continue in possession would amount to violation of the provisions of Section 83 of the 1987 Act. Therefore, keeping in view the settled law that the High Court will not issue a writ, which would compel a public authority to act in violation of the law, we decline to entertain their prayer.

Before concluding, we may mention that the appellants have not prayed for nullifying the decision of the Deputy Commissioner of Endowments not to approve the auction held on 15.05.2006 and, therefore, we have refrained from expressing any opinion in that regard.

In the result, the appeal is dismissed.

As a sequel to dismissal of the writ appeal, W.A.M.P.No.1949 of 2006 filed by the appellants for interim relief is also dismissed.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

11.09.2006
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